


The opinion in support of the decision being entered today was not written
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

THOMAS A. MILLER
and DARREL C. PINKSTON

Junior Party
(Patent No. 5,865,232)¹

v.

ROBERT D. BRAND

Senior Party
(Application 09/377,120)²

Patent Interference No. 105,215

Before MARTIN, LEE and MOORE, Administrative Patent Judge.

LEE, Administrative Patent Judge.

Judgment -- Bd. R. 127

¹ Based on Application 08/813,669, filed March 7, 1997. The real party in interest is Miller Veneers, Inc. Accorded the benefit of Provisional Application 60/013035, filed March 8, 1996.

² Filed August 19, 1999. The real party in interest is Indiana Forge, LLC. Accorded the benefit of Application 09/245,954, filed February 5, 1999; Application 08/752,800, filed November 20, 1996; Application 08/685,207, filed July 23, 1996; and Application 08/455,479, filed May 31, 1995.

Interference No. 105,215
Miller v. Brand

1 On August 25, 2005, we entered judgment as to the subject matter of the count against
2 senior party ROBERT D. BRAND, and held that senior party ROBERT D. BRAND was not
3 entitled to claim 38 of its involved Application 09/377,120.

4 The senior party appealed the judgment to the Court of Appeals for the Federal Circuit.

5 On May 14, 2007, the Court of Appeals for the Federal Circuit reversed and ordered that
6 judgment be entered for senior party ROBERT D. BRAND.

7 Accordingly, it is

8 **ORDERED** that judgment on priority as to the subject matter of Count 1 is herein
9 entered in favor of senior party ROBERT D. BRAND, and against junior party
10 THOMAS A. MILLER and DARREL C. PINKSTON;

11 **FURTHER ORDERED** that junior party THOMAS A. MILLER and DARREL C.
12 PINKSTON is not entitled to claim 1 of its involved Patent No. 5,865,232, and that senior party
13 ROBERT D. BRAND, on this record, is entitled to claim 38 of its involved Application
14 09/377,120;

15 **FURTHER ORDERED** that if there is a settlement agreement, the parties should note
16 the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

17 **FURTHER ORDERED** that a copy of this judgment be placed in the respective
18 involved application or patent of the parties.

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/s/John C. Martin)
JOHN C. MARTIN)
Administrative Patent Judge)
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/s/Jameson Lee)
JAMESON LEE)
Administrative Patent Judge)
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)
/s/James T. Moore)
JAMES T. MOORE)
Administrative Patent Judge)

BOARD OF PATENT
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